

APPENDIX

STATUTES

The Emergency Relief Appropriation Act of June 29, 1937, c. 401, 50 Stat. 352, 353-354, 357, provides in part:

TITLE I

* * * *Provided*, That no person employed on work projects and certified as in need of relief who refuses a bona-fide offer of private employment under reasonable working conditions which pays as much or more in compensation for the same length of service as such person receives or could receive under this appropriation and who is capable of performing such work, shall be retained in employment under this appropriation for the period such private employment would be available: *Provided further*, That any person who takes such private employment shall at the expiration thereof be entitled to immediate resumption of his previous employment status under this appropriation if he is still in need of relief and if he has lost the private employment through no fault of his own.

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SEC. 2. In carrying out the purposes of the foregoing appropriation the President is authorized (a) to prescribe such rules and regulations as may be necessary and to utilize agencies within the Government and to empower such agencies to prescribe rules and regulations to carry out the functions

delegated thereto by the President: *Provided*, That the rates of pay for persons engaged upon projects under the foregoing appropriation shall be not less than the prevailing rates of pay for work of a similar nature in the same locality as determined by the Works Progress Administration with the approval of the President;

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TITLE II

SEC. 201. The Federal Emergency Administration of Public Works (herein called the "Administration") is hereby continued until July 1, 1939, and until such date is hereby authorized to continue to perform all functions which it is authorized to perform on June 29, 1937. All provisions of law existing on June 29, 1937, and relating to the availability of funds for carrying out any of the functions of such Administration are hereby continued until July 1, 1939, except that the date specified in the Emergency Relief Appropriation Act of 1936, prior to which, in the determination of the Federal Emergency Administrator of Public Works (herein called the "Administrator"), a project can be substantially completed is hereby changed from "July 1, 1938" to "July 1, 1939."

REGULATIONS

Executive Order No. 7060, June 5, 1935, Prescribing Rules and Regulations Relating to Procedure for Employment of Workers under the Emergency Relief Appropriation Act of 1935—Regulation No. 2, Works Progress Administration, provides as follows:

SECTION 5. Only persons certified for assignment to work by the United States Employment Service shall be employed on projects: Provided That for the purpose of effectuating the purposes of paragraph I (C) of Executive Order No. 7034 of May 6, 1935, the Works Progress Administrator or the State Works Progress Administrators are hereby authorized in their discretion to modify this requirement in connection with any project not operated under contract.

SECTION 6. All persons (a) who are employed on projects conducted by the State Emergency Relief Administration and continued by the Works Progress Administration, and who are otherwise eligible, or (b) who are certified by the United States Employment Service as eligible for employment on projects to be conducted by the Works Progress Administration shall be regarded as continuously certified for assignment to work on projects to be conducted by the Works Progress Administration unless they are requisitioned by the United States Employment Service for employment on other projects, in other public work, or in private industry.

CONTRACT PROVISIONS

The contract provisions involved are as follows:

ART. 9. *Delays—Damages.*—If the contractor refuses or fails to prosecute the work, or any separable part thereof, with such diligence as will insure its completion within the time specified in article 1, or any extension thereof, or fails to complete said work within such time, the Government, may, by written notice to the contrac-

tor, terminate his right to proceed with the work or such part of the work as to which there has been delay. In such event the Government may take over the work and prosecute the same to completion, by contract or otherwise, and the contractor and his sureties shall be liable to the Government for any excess cost occasioned the Government thereby. If the contractor's right to proceed is so terminated, the Government may take possession of and utilize in completing the work such materials, appliances, and plant as may be on the site of the work and necessary therefor. If the Government does not terminate the right of the contractor to proceed, the contractor shall continue the work, in which event the actual damages for the delay will be impossible to determine and in lieu thereof the contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay until the work is completed or accepted, the amount is set forth in the specifications or accompanying papers and the contractor and his sureties shall be liable for the amount thereof: *Provided*, That the right of the contractor to proceed shall not be terminated or the contractor charged with liquidated damages because of any delays in the completion of the work due to unforeseeable causes beyond the control and without the the fault or negligence of the contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, insufficient supply of qualified labor from offices designated by the United States Employment Service, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or

delays of subcontractors due to such causes: *Provided further*, That the contractor shall within 10 days from the beginning of any such delay notify the contracting officer in writing of the causes of delay, who shall ascertain the facts and the extent of the delay and extend the time for completing the work when in his judgment the findings of fact justify such an extension, and his findings of fact thereon shall be final and conclusive on the parties hereto, subject only to appeal, within 30 days, by the contractor to the head of the department concerned, or his duly authorized representative, whose decision on such appeal as to the facts of delay and the extension of time for completing the work shall be final and conclusive on the parties hereto.

ART. 19. (a) *Labor preferences*.--With respect to all persons employed on projects, except as otherwise provided in Regulation No. 2, (a) such persons shall be referred for assignment to such work by the United States Employment Service, and (b) preference in employment shall be given to persons from the public relief rolls, and except with the specific authorization of the Works Progress Administration, at least ninety per centum (90%) of the persons employed on any project shall have been taken from the public relief rolls; *Provided however*, that, expressly subject to the requirement of subdivision (b), the supervisory, administrative, and highly skilled workers on the project, as defined in the specifications, need not be so referred by the United States Employment Service.

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